
HOUSE BILL 1702

State of Washington

59th Legislature

2005 Regular Session

By Representatives Cody, Campbell, Moeller, Appleton, Morrell, Green, Conway, Schual-Berke, Simpson, Darneille, Lantz, Kenney, Murray, Ormsby, Chase and Hasegawa

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1 AN ACT Relating to expanding access to health insurance coverage;
2 amending RCW 70.47.010, 70.47.020, 70.47.030, 70.47.060, and 70.47.080;
3 adding new sections to chapter 70.47 RCW; adding a new section to
4 chapter 48.21 RCW; adding a new section to chapter 48.44 RCW; adding a
5 new section to chapter 48.46 RCW; adding a new section to chapter 74.09
6 RCW; adding a new chapter to Title 50 RCW; and creating new sections.

7 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

8 **PART 1**

9 **EXPANDING ACCESS TO HEALTH INSURANCE THROUGH FEES ON LARGE EMPLOYERS**

10 NEW SECTION. **Sec. 101.** (1) The legislature finds that:

11 (a) Most working Washingtonians obtain their health insurance
12 coverage through their employment;

13 (b) In 2004, more than six hundred thousand Washingtonians were
14 uninsured, and, among uninsured working age adults, most have either
15 one or two workers in their family;

16 (c) People who are covered by health insurance have better health
17 outcomes than those who lack coverage. Persons without health

1 insurance are more likely to be in poor health, more likely to have
2 missed needed medications and treatment, and more likely to have
3 chronic conditions that are not properly managed;

4 (d) Persons without health insurance are at significant risk of
5 financial ruin or personal bankruptcy;

6 (e) The unpaid cost of health services provided to uninsured people
7 is shifted to paying patients, which increases the cost of health
8 services for employers, individuals, and state and local government.
9 Controlling health care costs can be more readily achieved if a greater
10 share of working people and their families have health benefits; and

11 (f) The state of Washington provides health insurance to low-income
12 working families through medicaid, the state children's health
13 insurance program, and the basic health plan. These programs are
14 paying the cost of coverage for some people who work for large
15 employers who do not offer affordable health care coverage to their
16 employees. The state also funds hospitals, community clinics, and
17 other safety net providers that provide care to those working people
18 whose employers do not provide affordable health coverage to their
19 workers as well as to other uninsured persons.

20 (2) It is therefore the intent of the legislature to:

21 (a) Expand access to health care by increasing the number of large
22 employers who provide health benefits to their employees and imposing
23 a fee on large employers who do not offer such benefits. Fee revenues
24 will be used to fund basic health plan coverage for as many employees
25 of employers paying the fee as the fee revenues can support. However,
26 consistent with this act, large employers can reduce or eliminate their
27 fee through expenditures on health services for their employees;

28 (b) Maintain existing protections in law for persons eligible for
29 medical assistance programs, the state children's health insurance
30 program, and the basic health plan.

31 (3) In enacting this act, it is not the intent of the legislature
32 to influence the content or administration of employee benefit plans,
33 and the legislature is neutral as to whether large employers choose to
34 pay the tax or provide health services to their employees and
35 dependents.

36 NEW SECTION. **Sec. 102.** The definitions in this section apply
37 throughout this chapter unless the context clearly requires otherwise.

1 (1) "Administrator" means the administrator of the state health
2 care authority, as established in chapter 41.05 RCW.

3 (2) "Authority" means the state health care authority, as
4 established in chapter 41.05 RCW.

5 (3) "Basic health plan" means the program established in chapter
6 70.47 RCW.

7 (4) "Employee" means a person in employment under Title 50 RCW who
8 has worked for an employer for at least three months.

9 (5) "Fee" means the fee as determined in sections 103 and 104 of
10 this act.

11 (6) "Large employer" means an employer as defined in RCW 50.04.080
12 who, on at least fifty percent of its working days during the preceding
13 calendar quarter, had fifty or more people in employment within this
14 state, and is not formed primarily for purposes of buying health
15 insurance. In determining the number of people in employment,
16 companies that are affiliated companies, or that are eligible to file
17 a combined tax return for purposes of taxation by this state, are
18 considered an employer.

19 (7) "Medicaid" means Title XIX of the federal social security act,
20 as administered by the department of social and health services under
21 chapter 74.09 RCW.

22 (8) "State children's health insurance program" means the program
23 established under RCW 74.09.450 and administered by the department of
24 social and health services.

25 NEW SECTION. **Sec. 103.** (1) Except as otherwise provided in this
26 chapter, beginning January 1, 2006, each large employer shall pay a fee
27 to the extent required in this section.

28 (2) The administrator shall establish the amount of the fee as
29 follows:

30 (a) On a calendar year basis, based upon the results of its basic
31 health plan procurement for that calendar year, the administrator shall
32 determine the monthly cost of providing basic health plan coverage to
33 an adult. That amount shall be multiplied by 0.85. The administrator
34 shall add to this amount a calculation of the monthly per capita cost
35 associated with the administration of this act, including those costs
36 associated with collection of the fee and its enforcement by the
37 employment security department;

1 (b) The amount calculated in (a) of this subsection is then divided
2 by eighty-six. The result is the hourly fee applicable for that
3 calendar year.

4 (3)(a) On a monthly basis, each large employer shall calculate the
5 aggregate fee due for that month by:

6 (i) Multiplying the hourly fee by the total number of hours that
7 each of its employees has worked during that month, up to a maximum of
8 eighty-six hours per month per employee; and

9 (ii) Deducting from the amount resulting from the calculation in
10 (a) of this subsection the aggregate amount paid by the employer to
11 provide health insurance coverage for its employees, allowable for the
12 current quarter by the internal revenue service as a deductible
13 business expense. A nonincorporated large employer may deduct its
14 aggregate expenses for providing health insurance coverage or other
15 health care benefits for its employees as reported and allowed pursuant
16 to rules adopted by the employment security department.

17 (b) Each large employer shall pay an aggregate monthly fee equal to
18 the amount remaining after the deductions provided for in this section.
19 A deduction for a large employer may not reduce the aggregate monthly
20 fee due below zero. The employer shall transmit any applicable fee to
21 the department on a quarterly basis.

22 (4) The program implemented under this act shall be fully supported
23 by the fees and basic health plan enrollee premium contributions
24 collected under this section and section 205 of this act.

25 (5) The fees collected under this act may not be used for any
26 purpose other than providing basic health plan coverage to fee
27 supported enrollees, as defined in RCW 70.47.020, as well as costs
28 associated with the administration of the basic health plan and with
29 collection of the fee under this chapter and its enforcement by the
30 employment security department.

31 NEW SECTION. **Sec. 104.** (1) The administrator shall provide notice
32 to the employment security department of the hourly fee in a time and
33 manner that permits the employment security department to provide
34 notice to all large employers of the estimated hourly fee for the
35 calendar year.

36 (2) Revenue from the fee must be deposited into the basic health
37 plan employer fee account established in RCW 70.47.030.

1 (3) If a large employer fails to pay the required fee, for whatever
2 reason, the large employer is responsible to the basic health plan
3 employer fee account for payment of a penalty of two hundred percent of
4 the amount of any fee that would have otherwise been paid by the large
5 employer. The penalty must be made to the administrator and must be
6 paid into the basic health plan employer fee account created in RCW
7 70.47.030.

8 (4) If amounts due under this section, including penalties, are not
9 paid on the date on which they are due and payable as prescribed by the
10 administrator, the whole or part thereof remaining unpaid bears
11 interest at the rate of one percent per month or fraction thereof from
12 and after such date until payment plus accrued interest is received by
13 the administrator. The date as of which payment of contributions, if
14 mailed, is deemed to have been received may be determined by rule.
15 Interest collected under this section must be paid into the basic
16 health plan employer fee account created in RCW 70.47.030.

17 (5) Nothing in this section precludes a large employer from
18 purchasing additional benefits or coverage, in addition to paying the
19 fee.

20 NEW SECTION. **Sec. 105.** Sections 101 through 104 of this act
21 constitute a new chapter in Title 50 RCW.

22 **PART 2**

23 **BASIC HEALTH PLAN MODIFICATIONS AND RELATED PROVISIONS**

24 **Sec. 201.** RCW 70.47.010 and 2000 c 79 s 42 are each amended to
25 read as follows:

26 ~~(1)((a) The legislature finds that limitations on access to health
27 care services for enrollees in the state, such as in rural and
28 underserved areas, are particularly challenging for the basic health
29 plan. Statutory restrictions have reduced the options available to the
30 administrator to address the access needs of basic health plan
31 enrollees. It is the intent of the legislature to authorize the
32 administrator to develop alternative purchasing strategies to ensure
33 access to basic health plan enrollees in all areas of the state,
34 including: (i) The use of differential rating for managed health care~~

1 ~~systems based on geographic differences in costs; and (ii) limited use~~
2 ~~of self insurance in areas where adequate access cannot be assured~~
3 ~~through other options.~~

4 ~~(b) In developing alternative purchasing strategies to address~~
5 ~~health care access needs, the administrator shall consult with~~
6 ~~interested persons including health carriers, health care providers,~~
7 ~~and health facilities, and with other appropriate state agencies~~
8 ~~including the office of the insurance commissioner and the office of~~
9 ~~community and rural health. In pursuing such alternatives, the~~
10 ~~administrator shall continue to give priority to prepaid managed care~~
11 ~~as the preferred method of assuring access to basic health plan~~
12 ~~enrollees followed, in priority order, by preferred providers, fee for~~
13 ~~service, and self funding.~~

14 ~~(2))~~ The legislature (~~(further)~~) finds that:

15 (a) A significant percentage of the population of this state does
16 not have reasonably available insurance or other coverage of the costs
17 of necessary basic health care services;

18 (b) This lack of basic health care coverage is detrimental to the
19 health of the individuals lacking coverage and to the public welfare,
20 and results in substantial expenditures for emergency and remedial
21 health care, often at the expense of health care providers, health care
22 facilities, and all purchasers of health care, including the state; and

23 (c) The use of managed health care systems has significant
24 potential to reduce the growth of health care costs incurred by the
25 people of this state generally, and by low-income pregnant women, and
26 at-risk children and adolescents who need greater access to managed
27 health care.

28 ~~((3))~~ (2) The purpose of this chapter is to provide or make more
29 readily available necessary basic health care services in an
30 appropriate setting to working persons and others who lack coverage, at
31 a cost to these persons that does not create barriers to the
32 utilization of necessary health care services. To that end, this
33 chapter establishes a program to be made available to those residents
34 not eligible for medicare who share in a portion of the cost or who pay
35 the full cost of receiving basic health care services from a managed
36 health care system.

37 ~~((4))~~ (3)(a) The legislature further finds that many small
38 employers struggle with the cost of providing employer-sponsored health

1 insurance coverage to their employees and their employees' families,
2 while others are unable to offer employer-sponsored health insurance
3 due to its high cost. Low-wage workers also struggle with the burden
4 of paying their share of the costs of employer-sponsored health
5 insurance, while others turn down their employer's offer of coverage
6 due to its costs.

7 (b) It is not the intent of this chapter to provide health care
8 services for those persons who are presently covered through private
9 employer-based health plans, nor to replace employer-based health
10 plans. However, the legislature recognizes that cost-effective and
11 affordable health plans may not always be available to small
12 ~~((business))~~ employers and that the basic health plan provides an
13 opportunity to blend private and public funds in a manner that makes
14 employer-based health plans more affordable for low-wage employees.
15 ~~((Further, it is the intent of the legislature to expand, wherever~~
16 ~~possible,))~~ By blending private and public funds, the legislature
17 intends to expand the availability of private health care coverage and
18 to discourage the decline of employer-based coverage.

19 ~~((+5))~~ (4)(a) It is the purpose of this chapter to acknowledge the
20 initial success of this program that has (i) assisted thousands of
21 families in their search for affordable health care; (ii) demonstrated
22 that low-income, uninsured families are willing to pay for their own
23 health care coverage to the extent of their ability to pay; and (iii)
24 proved that local health care providers are willing to enter into a
25 public-private partnership as a managed care system.

26 (b) As a consequence, the legislature intends to extend an option
27 to enroll to certain citizens above two hundred percent of the federal
28 poverty guidelines within the state who reside in communities where the
29 plan is operational and who collectively or individually wish to
30 exercise the opportunity to purchase health care coverage through the
31 basic health plan if the purchase is done at no cost to the state. It
32 is also the intent of the legislature to allow employers and other
33 financial sponsors to financially assist such individuals to purchase
34 health care through the program ~~((so long as such purchase does not~~
35 ~~result in a lower standard of coverage for employees))~~.

36 (c) The legislature intends that, to the extent of available funds,
37 the program be available throughout Washington state to subsidized and

1 nonsubsidized enrollees. It is also the intent of the legislature to
2 enroll subsidized enrollees first, to the maximum extent feasible.

3 (d) The legislature directs that the basic health plan
4 administrator identify enrollees who are likely to be eligible for
5 medical assistance and assist these individuals in applying for and
6 receiving medical assistance. The administrator and the department of
7 social and health services shall implement a seamless system to
8 coordinate eligibility determinations and benefit coverage for
9 enrollees of the basic health plan and medical assistance recipients.

10 (5)(a) The legislature further finds that limitations on access to
11 health care services for enrollees in the state, such as in rural and
12 underserved areas, are particularly challenging for the basic health
13 plan. Statutory restrictions have reduced the options available to the
14 administrator to address the access needs of basic health plan
15 enrollees. It is the intent of the legislature to authorize the
16 administrator to develop alternative purchasing strategies to ensure
17 access to basic health plan enrollees in all areas of the state,
18 including: (i) The use of differential rating for managed health care
19 systems based on geographic differences in costs; and (ii) limited use
20 of self-insurance in areas where adequate access cannot be ensured
21 through other options.

22 (b) In developing alternative purchasing strategies to address
23 health care access needs, the administrator shall consult with
24 interested persons including health carriers, health care providers,
25 and health facilities, and with other appropriate state agencies
26 including the office of the insurance commissioner and the office of
27 community and rural health.

28 **Sec. 202.** RCW 70.47.020 and 2004 c 192 s 1 are each amended to
29 read as follows:

30 As used in this chapter:

31 (1) "Washington basic health plan" or "plan" means the system of
32 enrollment and payment for basic health care services, administered by
33 the plan administrator through participating managed health care
34 systems or as provided in RCW 70.47.060(11), created by this chapter.

35 (2) "Administrator" means the Washington basic health plan
36 administrator, who also holds the position of administrator of the
37 Washington state health care authority.

1 (3) "Health coverage tax credit program" means the program created
2 by the Trade Act of 2002 (P.L. 107-210) that provides a federal tax
3 credit that subsidizes private health insurance coverage for displaced
4 workers certified to receive certain trade adjustment assistance
5 benefits and for individuals receiving benefits from the pension
6 benefit guaranty corporation.

7 (4) "Health coverage tax credit eligible enrollee" means individual
8 workers and their qualified family members who lose their jobs due to
9 the effects of international trade and are eligible for certain trade
10 adjustment assistance benefits; or are eligible for benefits under the
11 alternative trade adjustment assistance program; or are people who
12 receive benefits from the pension benefit guaranty corporation and are
13 at least fifty-five years old.

14 (5) "Managed health care system" means: (a) Any health care
15 organization, including health care providers, insurers, health care
16 service contractors, health maintenance organizations, or any
17 combination thereof, that provides directly or by contract basic health
18 care services, as defined by the administrator and rendered by duly
19 licensed providers, to a defined patient population enrolled in the
20 plan and in the managed health care system; or (b) a self-funded or
21 self-insured method of providing insurance coverage to subsidized or
22 fee supported enrollees provided under RCW 41.05.140 and subject to the
23 limitations under RCW 70.47.100(7).

24 (6) "Subsidized enrollee" means an individual, or an individual
25 plus the individual's spouse or dependent children: (a) Who is not
26 eligible for medicare; (b) who is not confined or residing in a
27 government-operated institution, unless he or she meets eligibility
28 criteria adopted by the administrator; (c) who resides in an area of
29 the state served by a managed health care system participating in the
30 plan; (d) whose gross family income at the time of enrollment does not
31 exceed two hundred percent of the federal poverty level as adjusted for
32 family size and determined annually by the federal department of health
33 and human services; and (e) who chooses to obtain basic health care
34 coverage from a particular managed health care system in return for
35 periodic payments to the plan. To the extent that state funds are
36 specifically appropriated for this purpose, with a corresponding
37 federal match, "subsidized enrollee" also means an individual, or an
38 individual's spouse or dependent children, who meets the requirements

1 in (a) through (c) and (e) of this subsection and whose gross family
2 income at the time of enrollment is more than two hundred percent, but
3 less than two hundred fifty-one percent, of the federal poverty level
4 as adjusted for family size and determined annually by the federal
5 department of health and human services.

6 (7) "Nonsubsidized enrollee" means an individual, or an individual
7 plus the individual's spouse or dependent children: (a) Who is not
8 eligible for medicare; (b) who is not confined or residing in a
9 government-operated institution, unless he or she meets eligibility
10 criteria adopted by the administrator; (c) who resides in an area of
11 the state served by a managed health care system participating in the
12 plan; (d) who chooses to obtain basic health care coverage from a
13 particular managed health care system; and (e) who pays or on whose
14 behalf is paid the full costs for participation in the plan, without
15 any subsidy from the plan.

16 (8) "Fee supported enrollee" means an individual not eligible for
17 medicare whose employer has paid a fee deposited in the basic health
18 plan employer fee account according to section 103 of this act, who
19 works at least eighty-six hours per month for the employer that has
20 paid the fee, and who chooses to obtain basic health plan coverage from
21 a participating managed health care system in return for periodic
22 payments to the plan.

23 (9) "Premium assistance enrollee" means an individual or an
24 individual plus the individual's spouse and dependent children: (a)
25 Who is not eligible for medicare; (b) who is not confined or residing
26 in a government-operated institution, unless he or she meets
27 eligibility criteria adopted by the administrator; (c) whose gross
28 family income at the time of enrollment does not exceed two hundred
29 percent of the federal poverty level as adjusted for family size and
30 determined annually by the federal department of health and human
31 services; (d) who resides within the state of Washington; and (e) who
32 qualifies for and chooses to participate in the small employer premium
33 assistance option under RCW 70.47.060(11).

34 (10) "Subsidy" means the difference between the amount of periodic
35 payment the administrator makes to a managed health care system on
36 behalf of a subsidized or fee supported enrollee or the amount of a
37 periodic payment made under RCW 70.47.060(11) on behalf of a premium
38 assistance enrollee plus the administrative cost to the plan of

1 providing the plan to that subsidized, fee supported, or premium
2 assistance enrollee, and the amount determined to be the subsidized,
3 fee supported, or premium assistance enrollee's responsibility under
4 ((RCW 70.47.060(2))) section 205 of this act.

5 ((+9)) (11) "Premium" means a periodic payment, based upon gross
6 family income which an individual, their employer, or another financial
7 sponsor makes to the plan as consideration for enrollment in the plan
8 as a subsidized enrollee, a fee supported enrollee, a premium
9 assistance enrollee, a nonsubsidized enrollee, or a health coverage tax
10 credit eligible enrollee.

11 ((+10)) (12) "Rate" means the amount, negotiated by the
12 administrator with and paid to a participating managed health care
13 system, that is based upon the enrollment of subsidized, fee supported,
14 nonsubsidized, and health coverage tax credit eligible enrollees in the
15 plan and in that system.

16 (13) "Small employer" has the same meaning as defined in RCW
17 48.43.005.

18 **Sec. 203.** RCW 70.47.030 and 2004 c 192 s 2 are each amended to
19 read as follows:

20 (1) The basic health plan trust account is hereby established in
21 the state treasury. Any nongeneral fund-state funds collected for this
22 program shall be deposited in the basic health plan trust account and
23 may be expended without further appropriation. Moneys in the account
24 shall be used exclusively for the purposes of this chapter, including
25 payments to participating managed health care systems on behalf of
26 enrollees in the plan and payment of costs of administering the plan.

27 ((During the 1995-97 fiscal biennium, the legislature may transfer
28 funds from the basic health plan trust account to the state general
29 fund.))

30 (2) The basic health plan subscription account is created in the
31 custody of the state treasurer. All receipts from amounts due from or
32 on behalf of nonsubsidized enrollees and health coverage tax credit
33 eligible enrollees shall be deposited into the account. Funds in the
34 account shall be used exclusively for the purposes of this chapter,
35 including payments to participating managed health care systems on
36 behalf of nonsubsidized enrollees and health coverage tax credit

1 eligible enrollees in the plan and payment of costs of administering
2 the plan. The account is subject to allotment procedures under chapter
3 43.88 RCW, but no appropriation is required for expenditures.

4 (3) The basic health plan employer fee account is created in the
5 custody of the state treasurer. All receipts from fees collected under
6 sections 103 and 104 of this act must be deposited in the account.
7 Expenditures from the account may be used only for the purposes of this
8 chapter, including payments to participating managed health care
9 systems for fee supported enrollees in the basic health plan and
10 payment of costs of administering the basic health plan coverage. Only
11 the administrator or the administrator's designee may authorize
12 expenditures from the account. The account is subject to allotment
13 procedures under chapter 43.88 RCW, but an appropriation is not
14 required for expenditures.

15 (4) The administrator shall take every precaution to see that none
16 of the funds in the separate accounts created in this section or that
17 any premiums paid either by subsidized or nonsubsidized enrollees are
18 commingled in any way, except that the administrator may combine funds
19 designated for administration of the plan into a single administrative
20 account.

21 **Sec. 204.** RCW 70.47.060 and 2004 c 192 s 3 are each amended to
22 read as follows:

23 The administrator has the following powers and duties:

24 (1) To design and from time to time revise a schedule of covered
25 basic health care services, including physician services, inpatient and
26 outpatient hospital services, prescription drugs and medications, and
27 other services that may be necessary for basic health care. In
28 addition, the administrator may, to the extent that funds are
29 available, offer as basic health plan services chemical dependency
30 services, mental health services and organ transplant services;
31 however, no one service or any combination of these three services
32 shall increase the actuarial value of the basic health plan benefits by
33 more than five percent excluding inflation, as determined by the office
34 of financial management. All subsidized, fee supported, and
35 nonsubsidized enrollees in any participating managed health care system
36 under the Washington basic health plan shall be entitled to receive
37 covered basic health care services in return for premium payments to

1 the plan. The schedule of services shall emphasize proven preventive
2 and primary health care and shall include all services necessary for
3 prenatal, postnatal, and well-child care. However, with respect to
4 coverage for subsidized enrollees who are eligible to receive prenatal
5 and postnatal services through the medical assistance program under
6 chapter 74.09 RCW, the administrator shall not contract for such
7 services except to the extent that such services are necessary over not
8 more than a one-month period in order to maintain continuity of care
9 after diagnosis of pregnancy by the managed care provider. The
10 schedule of services shall also include a separate schedule of basic
11 health care services for children, eighteen years of age and younger,
12 for those subsidized or nonsubsidized enrollees who choose to secure
13 basic coverage through the plan only for their dependent children. In
14 designing and revising the schedule of services, the administrator
15 shall consider the guidelines for assessing health services under the
16 mandated benefits act of 1984, RCW 48.47.030, and such other factors as
17 the administrator deems appropriate.

18 ~~(2)((a) To design and implement a structure of periodic premiums~~
19 ~~due the administrator from subsidized enrollees that is based upon~~
20 ~~gross family income, giving appropriate consideration to family size~~
21 ~~and the ages of all family members. The enrollment of children shall~~
22 ~~not require the enrollment of their parent or parents who are eligible~~
23 ~~for the plan. The structure of periodic premiums shall be applied to~~
24 ~~subsidized enrollees entering the plan as individuals pursuant to~~
25 ~~subsection (11) of this section and to the share of the cost of the~~
26 ~~plan due from subsidized enrollees entering the plan as employees~~
27 ~~pursuant to subsection (12) of this section.~~

28 ~~(b) To determine the periodic premiums due the administrator from~~
29 ~~nonsubsidized enrollees. Premiums due from nonsubsidized enrollees~~
30 ~~shall be in an amount equal to the cost charged by the managed health~~
31 ~~care system provider to the state for the plan plus the administrative~~
32 ~~cost of providing the plan to those enrollees and the premium tax under~~
33 ~~RCW 48.14.0201.~~

34 ~~(c) To determine the periodic premiums due the administrator from~~
35 ~~health coverage tax credit eligible enrollees. Premiums due from~~
36 ~~health coverage tax credit eligible enrollees must be in an amount~~
37 ~~equal to the cost charged by the managed health care system provider to~~
38 ~~the state for the plan, plus the administrative cost of providing the~~

1 ~~plan to those enrollees and the premium tax under RCW 48.14.0201. The~~
2 ~~administrator will consider the impact of eligibility determination by~~
3 ~~the appropriate federal agency designated by the Trade Act of 2002~~
4 ~~(P.L. 107-210) as well as the premium collection and remittance~~
5 ~~activities by the United States internal revenue service when~~
6 ~~determining the administrative cost charged for health coverage tax~~
7 ~~credit eligible enrollees.~~

8 ~~(d) An employer or other financial sponsor may, with the prior~~
9 ~~approval of the administrator, pay the premium, rate, or any other~~
10 ~~amount on behalf of a subsidized or nonsubsidized enrollee, by~~
11 ~~arrangement with the enrollee and through a mechanism acceptable to the~~
12 ~~administrator. The administrator shall establish a mechanism for~~
13 ~~receiving premium payments from the United States internal revenue~~
14 ~~service for health coverage tax credit eligible enrollees.~~

15 ~~(e) To develop, as an offering by every health carrier providing~~
16 ~~coverage identical to the basic health plan, as configured on January~~
17 ~~1, 2001, a basic health plan model plan with uniformity in enrollee~~
18 ~~cost-sharing requirements.~~

19 ~~(3))~~ To evaluate, with the cooperation of participating managed
20 health care system providers, the impact on the basic health plan of
21 enrolling health coverage tax credit eligible enrollees. The
22 administrator shall issue to the appropriate committees of the
23 legislature preliminary evaluations on June 1, 2005, and January 1,
24 2006, and a final evaluation by June 1, 2006. The evaluation shall
25 address the number of persons enrolled, the duration of their
26 enrollment, their utilization of covered services relative to other
27 basic health plan enrollees, and the extent to which their enrollment
28 contributed to any change in the cost of the basic health plan.

29 ~~((4))~~ (3) To end the participation of health coverage tax credit
30 eligible enrollees in the basic health plan if the federal government
31 reduces or terminates premium payments on their behalf through the
32 United States internal revenue service.

33 ~~((5))~~ (4) To design and implement a structure of enrollee cost-
34 sharing due a managed health care system from subsidized, fee
35 supported, nonsubsidized, and health coverage tax credit eligible
36 enrollees. The structure shall discourage inappropriate enrollee
37 utilization of health care services, and may utilize copayments,

1 deductibles, and other cost-sharing mechanisms, but shall not be so
2 costly to enrollees as to constitute a barrier to appropriate
3 utilization of necessary health care services.

4 ~~((+6+))~~ (5) To limit enrollment of persons who qualify for
5 subsidies, as subsidized or fee supported enrollees, or premium
6 assistance enrollees so as to prevent an overexpenditure of
7 appropriations for such purposes. Whenever the administrator finds
8 that there is danger of such an overexpenditure, the administrator
9 shall close enrollment until the administrator finds the danger no
10 longer exists. Such a closure does not apply to health coverage tax
11 credit eligible enrollees who receive a premium subsidy from the United
12 States internal revenue service as long as the enrollees qualify for
13 the health coverage tax credit program.

14 ~~((+7+))~~ (6) To limit the payment of subsidies or premium assistance
15 to subsidized enrollees, fee supported enrollees, and premium
16 assistance enrollees, as defined in RCW 70.47.020, except to the extent
17 authorized in section 207 of this act. The level of subsidy provided
18 to persons who qualify may be based on the lowest cost plans, as
19 defined by the administrator.

20 ~~((+8+))~~ (7) To adopt a schedule for the orderly development of the
21 delivery of services and availability of the plan to residents of the
22 state, subject to the limitations contained in RCW 70.47.080 or any act
23 appropriating funds for the plan.

24 ~~((+9+))~~ (8) To solicit and accept applications from managed health
25 care systems, as defined in this chapter, for inclusion as eligible
26 basic health care providers under the plan for subsidized enrollees,
27 fee supported enrollees, nonsubsidized enrollees, or health coverage
28 tax credit eligible enrollees. The administrator shall endeavor to
29 assure that covered basic health care services are available to any
30 enrollee of the plan from among a selection of two or more
31 participating managed health care systems. In adopting any rules or
32 procedures applicable to managed health care systems and in its
33 dealings with such systems, the administrator shall consider and make
34 suitable allowance for the need for health care services and the
35 differences in local availability of health care resources, along with
36 other resources, within and among the several areas of the state.
37 Contracts with participating managed health care systems shall ensure
38 that basic health plan enrollees who become eligible for medical

1 assistance may, at their option, continue to receive services from
2 their existing providers within the managed health care system if such
3 providers have entered into provider agreements with the department of
4 social and health services.

5 ~~((10) To receive periodic premiums from or on behalf of~~
6 ~~subsidized, nonsubsidized, and health coverage tax credit eligible~~
7 ~~enrollees, deposit them in the basic health plan operating account,~~
8 ~~keep records of enrollee status, and authorize periodic payments to~~
9 ~~managed health care systems on the basis of the number of enrollees~~
10 ~~participating in the respective managed health care systems.~~

11 ~~(11))~~ (9) To accept applications from individuals residing in
12 areas served by the plan, on behalf of themselves and their spouses and
13 dependent children, for enrollment in the Washington basic health plan
14 as subsidized, fee supported, premium assistance, nonsubsidized, or
15 health coverage tax credit eligible enrollees, to establish appropriate
16 minimum-enrollment periods for enrollees as may be necessary, and to
17 determine, upon application and on a reasonable schedule defined by the
18 authority, or at the request of any enrollee, eligibility due to
19 current gross family income for sliding scale premiums. Applications
20 from individuals as fee supported enrollees may be submitted for
21 calendar years beginning January 1, 2006. Applications from
22 individuals as premium assistance enrollees may be accepted by the
23 administrator only during those biennia for which the biennial
24 appropriations act includes funding sufficient to support enrollment of
25 at least one hundred thousand subsidized or fee supported enrollees.
26 If appropriations in a subsequent biennium are not sufficient to
27 support enrollment of at least one hundred thousand subsidized or fee
28 supported enrollees, current premium assistance enrollees will maintain
29 their enrolled status. Funds received by a family as part of
30 participation in the adoption support program authorized under RCW
31 26.33.320 and 74.13.100 through 74.13.145 shall not be counted toward
32 a family's current gross family income for the purposes of this
33 chapter. When an enrollee fails to report income or income changes
34 accurately, the administrator shall have the authority either to bill
35 the enrollee for the amounts overpaid by the state or to impose civil
36 penalties of up to two hundred percent of the amount of subsidy
37 overpaid due to the enrollee incorrectly reporting income. The
38 administrator shall adopt rules to define the appropriate application

1 of these sanctions and the processes to implement the sanctions
2 provided in this subsection, within available resources. No subsidy
3 may be paid with respect to any enrollee whose current gross family
4 income exceeds twice the federal poverty level or, subject to RCW
5 70.47.110, who is a recipient of medical assistance or medical care
6 services under chapter 74.09 RCW. If a number of enrollees drop their
7 enrollment for no apparent good cause, the administrator may establish
8 appropriate rules or requirements that are applicable to such
9 individuals before they will be allowed to reenroll in the plan. If a
10 fee supported enrollee loses their fee supported enrollee status, the
11 individual may apply to convert their enrollment to enrollment as a
12 subsidized enrollee. If subsidized enrollment is subject to a
13 reservation or waiting list at the time of the application, the
14 enrollee must be given the opportunity to place their name on the
15 reservation or waiting list.

16 ((+12)) (10) To accept applications from business owners on behalf
17 of themselves and their employees, spouses, and dependent children, as
18 subsidized or nonsubsidized enrollees, who reside in an area served by
19 the plan. The administrator may require all or the substantial
20 majority of the eligible employees of such businesses to enroll in the
21 plan and establish those procedures necessary to facilitate the orderly
22 enrollment of groups in the plan and into a managed health care system.
23 The administrator may require that a business owner pay at least an
24 amount equal to what the employee pays after the state pays its portion
25 of the subsidized premium cost of the plan on behalf of each employee
26 enrolled in the plan. Enrollment is limited to those not eligible for
27 medicare who wish to enroll in the plan and choose to obtain the basic
28 health care coverage and services from a managed care system
29 participating in the plan. The administrator shall adjust the amount
30 determined to be due on behalf of or from all such enrollees whenever
31 the amount negotiated by the administrator with the participating
32 managed health care system or systems is modified or the administrative
33 cost of providing the plan to such enrollees changes.

34 ((+13)) (11)(a) To accept applications from individuals as premium
35 assistance enrollees, on behalf of themselves and their spouses and
36 dependent children, for assistance in payment of their share of their
37 small employer's health plan premiums, and to determine, upon
38 application and on a reasonable schedule defined by the authority, or

1 at the request of any enrollee, eligibility due to current gross family
2 income for sliding scale premium assistance. The amount of the
3 enrollee's premium assistance shall be based upon the premium schedule
4 for subsidized enrollees. The administrator may use basic health plan
5 funds on behalf of premium assistance enrollees when:

6 (i) The cost of paying the premium assistance enrollee's premium
7 obligation would be less than the subsidy that would be paid if the
8 individual, or the individual plus his or her spouse and dependent
9 children, were to enroll in a participating managed care system;

10 (ii) The small employer health benefit plan for which the enrollee
11 is seeking premium assistance meets any standards for minimum
12 thresholds of coverage established by the administrator. The office of
13 the insurance commissioner, under Title 48 RCW, will certify small
14 employer health benefit plans that meet any standards adopted under
15 this subsection (11);

16 (iii) The premium assistance enrollee agrees to provide
17 verification of continued enrollment in his or her small employer's
18 health benefit plan on a semiannual basis, or to notify the
19 administrator whenever his or her enrollment status changes, whichever
20 is earlier. Verification or notification may be made directly by the
21 employee, or through their employer or the carrier providing the small
22 employer health benefit plan.

23 (b) The administrator, in consultation with small employers,
24 carriers, and the office of the insurance commissioner, shall determine
25 the most efficient method for payment of premium assistance, with a
26 goal of minimizing the administrative burden on small employers.

27 (c) Funds received by a family as part of participation in the
28 adoption support program authorized under RCW 26.33.320 and 74.13.100
29 through 74.13.145 shall not be counted toward a family's current gross
30 family income for the purposes of this chapter. The enrollee reporting
31 and sanctions provisions of subsection (9) of this section apply to
32 premium assistance enrollees. No premium assistance may be paid with
33 respect to any enrollee whose current gross family income exceeds twice
34 the federal poverty level or, subject to RCW 70.47.110, who is a
35 recipient of medical assistance or medical care services under chapter
36 74.09 RCW.

37 (12) To determine the rate to be paid to each participating managed
38 health care system in return for the provision of covered basic health

1 care services to enrollees in the system. Although the schedule of
2 covered basic health care services will be the same or actuarially
3 equivalent for similar enrollees, the rates negotiated with
4 participating managed health care systems may vary among the systems.
5 In negotiating rates with participating systems, the administrator
6 shall consider the characteristics of the populations served by the
7 respective systems, economic circumstances of the local area, the need
8 to conserve the resources of the basic health plan trust account, and
9 other factors the administrator finds relevant.

10 ~~((14))~~ (13) To monitor the provision of covered services to
11 enrollees by participating managed health care systems in order to
12 assure enrollee access to good quality basic health care, to require
13 periodic data reports concerning the utilization of health care
14 services rendered to enrollees in order to provide adequate information
15 for evaluation, and to inspect the books and records of participating
16 managed health care systems to assure compliance with the purposes of
17 this chapter. In requiring reports from participating managed health
18 care systems, including data on services rendered enrollees, the
19 administrator shall endeavor to minimize costs, both to the managed
20 health care systems and to the plan. The administrator shall
21 coordinate any such reporting requirements with other state agencies,
22 such as the insurance commissioner and the department of health, to
23 minimize duplication of effort.

24 ~~((15))~~ (14) To evaluate the effects this chapter has on private
25 employer-based health care coverage and to take appropriate measures
26 consistent with state and federal statutes that will discourage the
27 reduction of such coverage in the state.

28 ~~((16))~~ (15) To develop a program of proven preventive health
29 measures and to integrate it into the plan wherever possible and
30 consistent with this chapter.

31 ~~((17))~~ (16) To provide, consistent with available funding,
32 assistance for rural residents, underserved populations, and persons of
33 color.

34 ~~((18))~~ (17) In consultation with appropriate state and local
35 government agencies, to establish criteria defining eligibility for
36 persons confined or residing in government-operated institutions.

37 ~~((19))~~ (18) To administer the premium discounts provided under

1 RCW 48.41.200(3)(a) (i) and (ii) pursuant to a contract with the
2 Washington state health insurance pool.

3 NEW SECTION. **Sec. 205.** A new section is added to chapter 70.47
4 RCW to read as follows:

5 (1) The administrator shall:

6 (a) Design and implement a structure of periodic premiums due from
7 subsidized and premium assistance enrollees that is based upon gross
8 family income, giving appropriate consideration to family size and the
9 ages of all family members. A subsidized enrollee's premium may not
10 exceed twenty percent of the age-adjusted rate paid to the
11 participating managed health care system that the subsidized enrollee
12 has chosen to enroll in. The enrollment of children does not require
13 the enrollment of their parent or parents who are eligible for the
14 plan. The structure of periodic premiums must be applied to subsidized
15 enrollees entering the plan as individuals under RCW 70.47.060(9), and
16 to the share of the cost of their small employer-sponsored health
17 insurance coverage due from premium assistance enrollees entering the
18 plan under RCW 70.47.060(11);

19 (b) Design and implement a structure of periodic premiums due from
20 fee supported enrollees. A fee supported enrollee's premium will be
21 fifteen percent of the age-adjusted rate paid to the participating
22 managed health care system that the fee supported enrollee has chosen
23 to enroll in;

24 (c) Determine the periodic premiums due the administrator from
25 nonsubsidized enrollees. Premiums due from nonsubsidized enrollees
26 must be in an amount equal to the cost charged by the managed health
27 care system provider to the state for the plan plus the administrative
28 cost of providing the plan to those enrollees and the premium tax under
29 RCW 48.14.0201.

30 (2) An employer or other financial sponsor may, with the prior
31 approval of the administrator, pay the premium, rate, or any other
32 amount on behalf of a subsidized or nonsubsidized enrollee, by
33 arrangement with the enrollee and through a mechanism acceptable to the
34 administrator.

35 (3) The administrator shall receive periodic premiums from or on
36 behalf of subsidized, fee supported, and nonsubsidized enrollees,
37 deposit them in the appropriate account, keep records of enrollee

1 status, and authorize periodic payments to managed health care systems
2 on the basis of the number of enrollees participating in the respective
3 managed health care systems.

4 **Sec. 206.** RCW 70.47.080 and 1993 c 492 s 213 are each amended to
5 read as follows:

6 (1)(a) On and after July 1, 1988, the administrator shall accept
7 for enrollment applicants eligible to receive covered basic health care
8 services from the respective managed health care systems which are then
9 participating in the plan.

10 (b) Thereafter, total subsidized enrollment shall not result in
11 expenditures that exceed the total amount that has been made available
12 by the legislature in any act appropriating funds to the plan. To the
13 extent that new funding is appropriated for expansion, the
14 administrator shall endeavor to secure participation contracts from
15 managed health care systems in geographic areas of the state that are
16 unserved by the plan at the time at which the new funding is
17 appropriated. In the selection of any such areas the administrator
18 shall take into account the levels and rates of unemployment in
19 different areas of the state, the need to provide basic health care
20 coverage to a population reasonably representative of the portion of
21 the state's population that lacks such coverage, and the need for
22 geographic, demographic, and economic diversity.

23 (c) The administrator shall at all times closely monitor growth
24 patterns of enrollment so as not to exceed that consistent with the
25 orderly development of the plan as a whole, in any area of the state or
26 in any participating managed health care system. The annual or
27 biennial enrollment limitations derived from operation of the plan
28 under this section do not apply to nonsubsidized enrollees as defined
29 in RCW 70.47.020(~~(+5)~~) (7).

30 (2) Total fee supported enrollment shall not result in expenditures
31 that exceed the total amount that has been deposited into the basic
32 health plan employer fee account under section 203 of this act.

33 NEW SECTION. **Sec. 207.** A new section is added to chapter 70.47
34 RCW to read as follows:

35 (1) To the extent that savings result from the conversion of
36 subsidized enrollees to fee supported enrollees under sections 101

1 through 104 of this act and to the extent that such savings are
2 appropriated for this purpose by the legislature, the administrator may
3 establish an option for small employer group enrollment in the basic
4 health plan. Under this option, as distinguished from individual
5 enrollment, the administrator may accept applications for group
6 coverage from small employers who meet the requirements of this section
7 on behalf of themselves and their employees, spouses, and dependent
8 children who reside in an area served by the plan.

9 (2) A small employer seeking coverage through the basic health plan
10 must certify upon application, and annually thereafter, that at least
11 seventy-five percent of the small employer's employees have wages or
12 salary that are at or below two hundred percent of the federal poverty
13 guidelines as adjusted for a family of three and determined annually by
14 the federal department of health and human services. Small employer
15 group coverage through the basic health plan is not conditioned upon
16 all of the employer's employees meeting the eligibility requirements
17 for subsidized enrollees as defined in RCW 70.47.020. The
18 administrator may not require employers to report total household
19 income of their employees as a condition of receiving group coverage
20 through the basic health plan.

21 (3) The administrator may require a substantial majority of the
22 eligible employees of small employers to enroll in the plan and
23 establish those procedures necessary to facilitate the orderly
24 enrollment of small employer groups in the plan and into a managed
25 health care system.

26 (4) Basic health plan coverage must be purchased for small employer
27 group enrollees through the basic health plan subsidized enrollee pool,
28 even though not all employees in the group may be subsidized enrollees
29 as defined in RCW 70.47.020.

30 (5) Enrollment is limited to small employer groups who wish to
31 enroll in the plan and choose to obtain basic health care coverage and
32 services from a managed care system participating in the plan. For
33 each employee of the small employer group with wages below the level
34 established in subsection (2) of this section, the employer must pay at
35 least forty percent, the employee must pay a maximum of twenty percent,
36 and the plan must pay forty percent, of the age-adjusted rate paid to
37 the participating managed health care system that the small employer
38 group has chosen to enroll in. No state subsidy may be paid on behalf

1 of employees with wages in excess of the level established in
2 subsection (2) of this section. The administrator shall adjust the
3 amount determined to be due from small employer group enrollees
4 whenever the amount negotiated by the administrator with the
5 participating managed health care system or systems is modified or the
6 administrative cost of providing the plan to such enrollees changes.

7 NEW SECTION. **Sec. 208.** A new section is added to chapter 48.21
8 RCW to read as follows:

9 On or after July 1, 2005, regardless of any applicable open
10 enrollment period, an insurer shall enroll any individual or family
11 member of an individual who requests enrollment in a group disability
12 insurance contract for health care within thirty days after becoming
13 eligible for a basic health plan small employer-sponsored health
14 insurance premium assistance under RCW 70.47.060(11).

15 NEW SECTION. **Sec. 209.** A new section is added to chapter 48.44
16 RCW to read as follows:

17 On or after July 1, 2005, regardless of any applicable open
18 enrollment period, a health care service contractor shall enroll any
19 individual or family member of an individual who requests enrollment in
20 a group health care service contract within thirty days after becoming
21 eligible for a basic health plan small employer-sponsored health
22 insurance premium assistance under RCW 70.47.060(11).

23 NEW SECTION. **Sec. 210.** A new section is added to chapter 48.46
24 RCW to read as follows:

25 On or after July 1, 2005, regardless of any applicable open
26 enrollment period, a health maintenance organization shall enroll any
27 individual or family member of an individual who requests enrollment in
28 a group health maintenance agreement within thirty days after becoming
29 eligible for a basic health plan small employer-sponsored health
30 insurance premium assistance under RCW 70.47.060(11).

31 NEW SECTION. **Sec. 211.** A new section is added to chapter 74.09
32 RCW to read as follows:

33 (1) The department shall make every effort to maximize
34 opportunities to blend public and private funds through subsidization

1 of small employer-sponsored health insurance premiums on behalf of
2 individuals eligible for medical assistance and children eligible for
3 the state children's health insurance program when such subsidization
4 is cost-effective for the state. In developing policies under this
5 section, the department shall consult with the health care authority
6 and, to the extent allowed by federal law, develop policies that are
7 consistent with those developed by the health care authority under RCW
8 70.47.060(11) so that entire families will have the opportunity to
9 enroll in the same small employer-sponsored health insurance plan.

10 (2) If a federal waiver is necessary to achieve consistency with
11 health care authority policies under RCW 70.47.060(11), the department
12 shall notify the relevant fiscal and policy committees of the
13 legislature on or before January 1, 2006. The notification must
14 include recommendations regarding federal waiver options that would
15 provide the flexibility needed to optimize the use of medical
16 assistance and state children's health insurance program funds to
17 subsidize small employer-sponsored health insurance premiums on behalf
18 of low-income families.

19 **PART 3**
20 **MISCELLANEOUS**
21

22 NEW SECTION. **Sec. 301.** If any part of this act is found to be in
23 conflict with federal requirements that are a prescribed condition to
24 the allocation of federal funds to the state or the eligibility of
25 employers in this state for federal unemployment tax credits, the
26 conflicting part of this act is inoperative solely to the extent of the
27 conflict, and the finding or determination does not affect the
28 operation of the remainder of this act. Rules adopted under this act
29 must meet federal requirements that are a necessary condition to the
30 receipt of federal funds by the state or the granting of federal
31 unemployment tax credits to employers in this state.

32 NEW SECTION. **Sec. 302.** This act shall be known as the "health
33 care responsibility act."

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